

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

ENCANA OIL & GAS (USA) Inc., a Delaware  
corporation,

Plaintiff/Counter-Defendant,

v

ZAREMBA FAMILY FARMS, INC., a Michigan  
corporation, ZAREMBA GROUP, L.L.C., a  
Michigan limited liability company, and  
WALTER ZAREMBA, an individual,

Defendants/Counter-Plaintiffs.

Case No. 1:12-cv-00369-PLM

Chief Judge Paul L. Maloney

Magistrate Judge Joseph G. Scoville

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**DEFENDANTS/COUNTER-PLAINTIFFS' OBJECTION TO [PROPOSED]  
ORDER REGARDING LAPTOP COMPUTER AND PRODUCTION OF FILES**

Defendants/Counter-Plaintiffs Zaremba Family Farms, Inc., Zaremba Group, L.L.C. and Walter Zaremba (collectively "the Zarembas"), by and through their attorneys, Howard & Howard Attorneys PLLC, and pursuant to this Court's Notice dated February 14, 2014 [Dkt. 262], hereby object to the proposed Order Regarding Laptop Computer and Production of Files (the "Proposed Stipulation") [Dkt. 262-1].

1. On February 14, 2014, this Court served on the parties its Notice of its intention to enter the proposed Order Regarding Laptop Computer and Production of Files. [Dkt. 262] That Notice attached the [Proposed] Order Regarding Laptop Computer and Production of Files (the “Proposed Order”). [Dkt. 262-1]

2. The Zarembas submit this objection because of what they believe to be a clerical error in the text of the Proposed Order.

3. When the parties appeared before this Court on February 13, 2013, the parties and this Court discussed a protocol for the handling of the data on the laptop computer used by the Zarembas’ consultant, Steve Dzierwa.

4. As this Court may recall, as part of the discussion regarding that protocol, the parties agreed that documents created after April 16, 2012 would be excluded from the documents produced to Encana, because April 16, 2012 was the date that Encana filed its Complaint commencing this action.

5. The Proposed Order as written, however, appears to be inconsistent with this agreement.

6. Paragraph D on page 4 of the Proposed Order contemplates Mr. Matthews preparing two spreadsheets. Spreadsheet No. 1 is to list all the files to be produced to the parties. Spreadsheet No. 2 is to list all the files that are to be excluded from production, e.g., because those files contain the names of identified counsel (under ¶ B(3)), were already listed on Mr. Dzierwa’s privilege log (under ¶B(4)), predated December 2009 (under ¶B(5)), or because the Zarembas included such files on their supplemental privilege log (under ¶C).

7. Paragraph D states that: “Any document created after April 16, 2012, must also be excluded from spreadsheet no. 2” – the spreadsheet listing the exclusions from production.

In other words, although the parties agreed that documents created after April 16, 2012 would be excluded from production, the Proposed Order, as written, states that documents created after April 16, 2012 would be excluded from the exclusions (not from the production).

8. The Zarembas believe that the sentence: “Any document created after April 16, 2012, must also be excluded from spreadsheet no. 2” is incorrect due to a mere clerical error.

9. The Zarembas believe that the sentence should be corrected to read: “Any document created after April 16, 2012, must also be excluded from spreadsheet no. 1.”

WHEREFORE, the Zarembas respectfully request that this Court modify the Proposed Order so that the fourth sentence of Paragraph D on page 4, that currently reads:

Any document created after April 16, 2012, must also be excluded from spreadsheet no. 2.

is revised to read as follows:

Any document created after April 16, 2012, must also be excluded from spreadsheet no. 1.

Respectfully submitted,

HOWARD & HOWARD ATTORNEYS PLLC

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Dated: February 18, 2014

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**CERTIFICATE OF SERVICE**

The undersigned certifies that Defendants/Counter-Plaintiffs' Objection to Proposed Order Regarding Laptop Computer and Production of Files was served upon all parties in the above cause to each of the attorneys of record herein at their respective addresses disclosed on the pleadings on **February 18, 2014** via:

By:    ☒ U.S. Mail                      ☐ FAX  
         ☐ Hand Delivered           ☒ E-mail  
         ☐ Overnight                   ☒ ECF System

I declare that the statements above are true to the best of my information, knowledge, and belief.

By:/s/ Jennifer A. Greig  
         Jennifer A. Greig, Legal Assistant